

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

IN RE: § Chapter 11
§
TEX-GAS HOLDINGS, LLC § CASE NO. 21-80092
§
Debtor §

**MOTION TO REPLENISH RETAINER FOR ANDREWS MYERS, P.C., PURSUANT
TO BANKRUPTCY LOCAL RULE 2016-1(b) & (c), 11 U.S.C. § 364(A) AND 105**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

THERE WILL BE A HEARING ON THIS MOTION ON AUGUST 25, 2021, AT 11:00 A.M., IN COURTROOM 403, 515 RUSK, HOUSTON, TEXAS 77002.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Tex-Gas Holdings, LLC, the Debtor, and submits this Motion for Replenishment of Retainer for Andrews Myers, P.C. pursuant to BLR 2016-1(b) & (c) 11 U.S.C. §§364(a) and 105 (the “Motion”), and in support thereof, states as follows:

JURISDICTION AND VENUE

1. This Court has Jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 & 1334.
2. This matter constitutes a core proceeding under 28 U.S.C. §§ 157(b)(2)(A) & (O).

Venue is proper under 28 U.S.C. §§ 1408 & 1409.

BACKGROUND

3. Tex-Gas' Chapter 11 bankruptcy case was filed on June 1, 2021 (the "Petition Date"), under Chapter 11 Title 11 of the Bankruptcy Code. The Debtor continues to manage its respective property as a debtor-in-possession pursuant to §§1107 and 1108 of the Bankruptcy Code.

4. Tex-Gas owns approximately 17 acres of real property and certain improvements located in Bay City, Matagorda County, Texas (the "Property"). EFG America LLC, a non-debtor affiliate of Tex-Gas owns and operates a devulcanization plant on the Property (the "Plant"). With the exception of a \$100.00 monthly rental fee, the Debtor currently has no other source of revenues.

5. No trustee or examiner has been appointed in the bankruptcy case. An official committee of unsecured creditors has not been established.

6. On June 9, 2021, Andrews Myers, P.C. ("AM") filed its application to be employed as Debtor's counsel [Docket No. 19]. On July 7, 2021, the Court issued an Order Approving Andrews Myers, P.C. as Counsel for Debtor [Docket No. 26].

7. As of the Petition Date, the balance of the Firm's retainer was \$13,135.00. Pursuant to and as disclosed in the First Notice of Distribution of Retainer filed with the Court, effective after the expiration of 21 days if no objection is filed, the balance of the pre-petition retainer for the Debtor will be \$1,584.48.

RELIEF REQUESTED

8. BLR 2016-1(b) states "retainers may be deposited with attorneys or accountants only (i) prior to the filing of the petition; or (ii) pursuant to a Court order, if paid after the filing of the petition."

9. EFG America LLC has agreed to replenish the retainer for Tex-Gas in the amount of \$30,000.00. As disclosed on the Debtor's schedules, EFG America LLC also funded the pre-petition retainer. Section 364(a) of the Bankruptcy Code authorizes the Debtor to obtain unsecured debt allowable under section 503(b)(1) as an administrative expense. Accordingly, the advancement of the retainer shall be treated as a general unsecured claim and allowable as an administrative expense under § 503(b)(1) pursuant to the terms of 11 U.S.C. §364(a).

10. Any further distributions from the retainer shall remain subject to Bankruptcy Local Rule 2016, and final fee application approval by this Court.

WHEREFORE, the Debtor respectfully requests that the Court permit the Firm's retainer be replenished by EFG America LLC, and for such other and further relief the Court deems just.

DATED: July 27, 2021

Respectfully Submitted,

ANDREWS MYERS, P.C.

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ATTORNEYS FOR DEBTOR

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2021, a true and correct copy of the foregoing Motion to Replenish Retainer was served via the Court's ECF Notification on all parties listed below and via Mail to all parties listed on the attached Service List.

Keith Miles Aurzada on behalf of Creditor Lui So Yuk
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Jana Smith Whitworth on behalf of U.S. Trustee US Trustee
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/s/ T. Josh Judd

T. JOSH JUDD

SERVICE LIST
Case No. 21-80092
In re: TEX-GAS HOLDINGS, LLC

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